

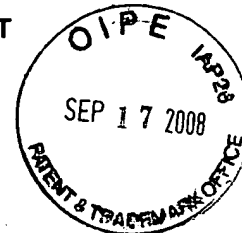
Customer No. 26308

Patent *IFW*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : Rahdert et al. Examiner: Stewart, Alvin J.
Serial No. : 10/676,729 Group Art Unit: 3738
Filed : 1 October 2003
For : Devices, Systems, and Methods for Retaining a Native Heart Valve Leaflet

RESPONSE RE: NOTICE OF ABANDONMENT



Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant has received a Notice of Abandonment in this case, mailed 10 September 2008 (Attachment 1). The Notice states that Applicant failed to respond to the Office Action mailed 28 February 2008.

Applicant mailed an Amendment in response to the Office Action with a certificate of mailing on 27 August 2008 (Attachment 2). The return postcard, date stamped by the Patent Office on 27 August 2008, has acknowledged receipt of this Amendment, and the post card is attached as Attachment 3).

Applicant therefore respectfully requests withdrawal of the Notice of Abandonment. Acknowledgment of the active status of this application is respectfully requested.

Respectfully submitted,

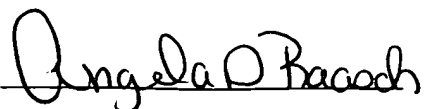
By 
Daniel D. Ryan, Reg No. 29,243

RYAN KROMHOLZ & MANION, S.C.
PO Box 26618
Milwaukee, WI 53226
(262) 783 - 1300
Customer No. 26308
15 September 2008

Ample Medical, Inc. 118427 Leaflet Retainer 80015 Response to Notice of Abandonment

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 15 September 2008.

By 
Dated 15 September 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/676,729

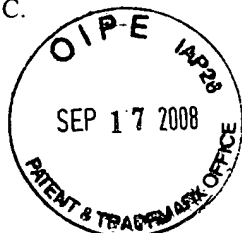
10/01/2003

David A. Rahdert

9542.18427-FOR

2935

26308 7590 09/10/2008
RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226



EXAMINER

STEWART, ALVIN J

ART UNIT	PAPER NUMBER
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3774

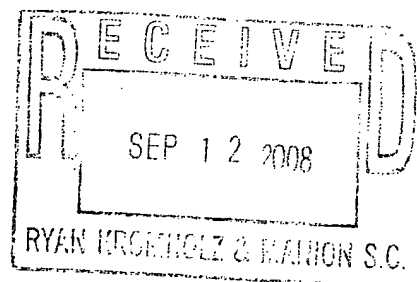
MAIL DATE	DELIVERY MODE
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09/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.





Notice of Abandonment

Application No.

10/676,729

Examiner

Alvin J. Stewart

Applicant(s)

RAHDERT ET AL.

Art Unit

3774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

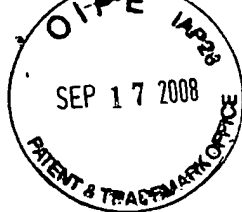
1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 28 February 2008.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

/Alvin J Stewart/
Primary Examiner
Art Unit: 3774

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



Customer No. 26308



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of: Rahdert et al.

Attorney Docket No.: 9542.18427-FOR

Serial No.: 10/676,729

Examiner: Stewart, Alvin J

Filed: 1 October 2003

Group Art Unit: 3738

For: Devices, Systems, and Methods for Retaining a Native Heart Valve Leaflet

**Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450**

AMENDMENT TRANSMITTAL

1. Transmitted herewith is an amendment for this application.

STATUS

2. Applicant is

☒ a small entity

☐ other than a small entity.

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed as follows: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Date: 27 August 2008

Angela D. Raasch

Type or print name of person mailing paper

Angela D. Raasch
(Signature of person mailing paper)

09/03/2008 ETECLE1 00000022 10676729
02 FC:2253 525.00 OP

Attachment #2



EXTENSION OF TERM

NOTE: Extension of Time in Patent Cases (Supplement Amendments) - If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).

NOTE: See 37 CFR 1.645 for extensions of time in interference proceedings and 37 CFR 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply
(complete (a) or (b) as applicable)

- (a) ☒ Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)(1) - (a)(5)) for the total number of months checked below:

	Extension (months)	Fee for other than Small Entity	Fee for Small Entity
<input type="checkbox"/>	one month	\$ 120.00	\$ 60.00
<input type="checkbox"/>	two months	\$ 460.00	\$ 230.00
<input checked="" type="checkbox"/>	three months	\$1050.00	\$ 525.00
<input type="checkbox"/>	four months	\$1640.00	\$ 820.00
<input type="checkbox"/>	five months	\$2230.00	\$1115.00

Fee: \$ 525.00

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for _____ months has already been secured and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request: \$ _____

OR

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

FEE FOR CLAIMS

4. The fee for claims has been calculated as shown below:

	Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra	Rate	Additional Fee (Small Entity)	Additional Fee (Large Entity)
Total Claims 37 CFR 1.16(i)*	12	-20 =	(8)	x \$ 25.00	\$0	\$0
Independent Claims (37 CFR 1.16(h)**	1	-3 =	(2)	x \$ 105.00	\$0	\$0
First Presentation of Multiple Dependent claim(s) if any (37 CFR 1.16(j))				\$185.00	\$0	\$0
Total Additional Fee					\$0	\$0

* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20".

** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: "After final rejection or action (S 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made." 37 CFR S 1.116(a) (emphasis added).

(complete (c) or (d) as applicable)

(c) ☒ No additional fee for claims is required.

OR

(d) ☐ Total additional fee for claims required \$_____.

FEE PAYMENT

5. ☒ Attached is a check in the sum of \$ 590.00 (includes fee for Terminal Disclaimer).

☐ Charge Account No. _____ the sum of \$_____.

FEE DEFICIENCY

NOTE: *If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).*

6. [x] If any overpayment of fees or additional extension and/or fee is required, charge Account No. 06-2360.

AND/OR

- [x] If any overpayment of fees or additional fee for claims is required charge Account No. 06-2360



SIGNATURE OF ATTORNEY

Reg. No.: 29,243

Daniel R. Ryan

TYPE OR PRINT NAME OF ATTORNEY

Tel. No.: (262) 783 - 1300

RYAN KROMHOLZ & MANION, S.C.

P.O. ADDRESS

Post Office Box 26618

Customer No. 26308

Milwaukee, Wisconsin 53226

Customer No.: 26308

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rahdert et al

Docket No.: 9542.18427-FOR

Serial No.: 10/676,729

Examiner: Stewart, Alvin J

Filed: 1 October 2003

Group Art Unit: 3738

Title: Devices, Systems, and Methods for Retaining a Native Heart Valve Leaflet

RESPONSE
SUBMISSION OF TERMINAL DISCLAIMER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

Applicant responds to the Office Action mailed February 28, 2008.

An automatic three month extension of time, up to and including August 28, 2008 is respectfully requested. The requisite fee accompanies this Amendment.

REMARKS

Claims 2 to 4; 6 to 11; 15; 17; and 19 remain in the application. Among these, claim 15 is the sole independent method claim. Claims 12, 13, and 14 stand withdrawn, subject to reinstatement upon allowance of a generic claim.

Claim 15 stands rejected on the ground of non-statutory obviousness-type double patenting based upon US 7,291,168. Claims 2 to 4; 6 to 11; 17; and 19 stand objected to as being dependent upon a rejected base claim.

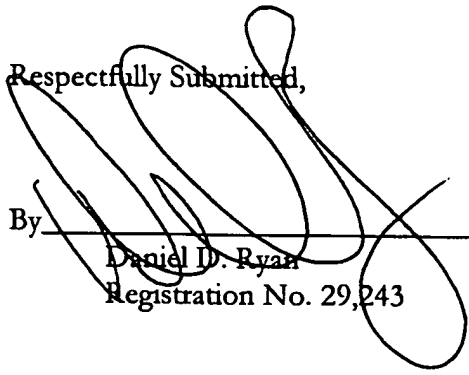
A Terminal Disclaimer accompanies this Response, thereby overcoming the rejection of claim 15. Dependent claims 2 to 4; 6 to 11; 17; and 19 are therefore believed to be allowable.

Applicant believes claim 15 is generic and, accordingly, reinstatement of withdrawn claims 12; 13; and 14 is warranted.

Allowance of claims 2 to 4; 6 to 11 to 15; 17; and 19 is respectfully requested.

Respectfully Submitted,

By


Daniel D. Ryan

Registration No. 29,243

RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
Milwaukee, Wisconsin 53226
(262) 783 - 1300
Customer No.: 26308

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PATENT & TRADEMARK OFFICE

IFW

PTO/SB/26 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

In re Application of: Rahdert et al.

Application No.: 10/676,729

Filed: October 1, 2003

For: Devices, Systems, and Methods for Retaining a Native Heart Valve Leaflet

OTPE IAP28
SEP 17 2008
PATENT & TRADEMARK OFFICE

The owner, Ample Medical, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 7,291,168 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

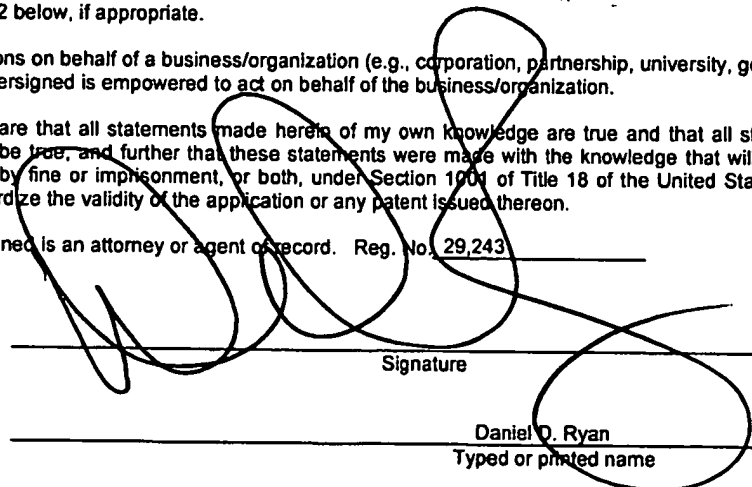
~~01/08/2008~~ ETECLE1 00000022 10676729.00 OP

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 29,243



Signature

August 27, 2008
Date

Daniel O. Ryan

Typed or printed name

262-783-1300
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 3.

09/03/2008 ETECLE1 00000022 10676729

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FILED IN THE UNITED STATES PATENT & TRADEMARK OFFICE

DDR:ar

Description: Amendment

Title: Devices, Systems, and Methods for Retaining a Native Heart
Valve Leaflet

Applicant: Rahdert et al. (Ample Medical, Inc.)

Serial No.: 10/676,729

Mailed: 27 August 2008 Via First Class Mail

Docket #: 9542.18427-FOR



Enclosures: Amendment Transmittal (4pgs); Response Submission
of Terminal Disclaimer (2); Terminal Disclaimer (1pg)
Check No. 25394; return postcard

Attachment #3